

March 2, 2009 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, March 2, 2009 at 6:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Edward J. Silveira, Jr.

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (1) personnel (Town Administrator)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 6:01P.M. and reconvene in executive session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 6:40 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

Councillor Bozyan moved, and it was duly seconded, to reconsider the vote taken at the last regular meeting, held on February 27, 2009

to appoint Gladys Lavine to the Planning Board; Councillor Bozyan recused himself from acting on the matter, due to a possible conflict of interest.

Councillor Bozyan noted at the time of the vote a recusal was raised and he voted to support the motion to appoint Mrs. Lavine because he had no financial gain in the matter.

On motion of Councillor Silveira duly seconded, it was voted unanimously to readvertise for the upcoming vacancy on the Planning Board, the appointment will be voted on at the April 6, 2009, regular meeting of the Council.

CONSENT CALENDAR

Vice Chairman Cambra requested items #3, #4, #5 and #7 be heard under the Town Council portion of the docket.

1. Approval of Minutes – Special Meeting, February 17, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

2. Communication of Robert G. Driscoll, Town Administrator, Town of Portsmouth, re: Portsmouth Representative for Aquidneck Island Re-use Planning (AIRPA).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

3. Applications received from the following named persons, firms and corporations for RENEWAL of Drain Layers Licenses for the 2009-2010 licensing year. (See Attached List)

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said applications.

Councillor Santos questioned if the applicants taxes were current.

Town Clerk Wendy Marshall, responding to Councillor Santos' inquiry, noted that all Town taxes must be current before an application is accepted by the office.

On motion of Vice Chair Cambra, duly seconded, it was voted unanimously to grant said licenses.

Council President Semonelli recused himself from acting on the following item of business, due to a possible conflict of interest.

4. Applications received from the following named persons, firms and corporations for RENEWAL of Holiday Licenses for the 2009-2010 licensing year. (See Attached List)

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said applications.

Councillor Santos questioned if the applicants taxes were current.

Town Clerk Wendy Marshall, responding to Councillor Santos' inquiry, noted that all Town taxes must be current before an application is accepted by the office.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said licenses.

5. Applications received from the following named persons, firms and corporations for RENEWAL of Sunday Selling Licenses for the 2009-2010 licensing year. (See Attached List)

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said applications.

Councillor Santos questioned if the applicants taxes were current.

Town Clerk Wendy Marshall, responding to Councillor Santos' inquiry, noted that all Town taxes must be current before an application is accepted by the office.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said licenses.

6. Memorandum of Town Administrator, with enclosures, re: Police Station Progress Report #7.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum and report.

7. Communication of Town Administrator, with enclosures, re: Financial Statements for period ending January 31, 2009.

Councillor Santos requested information on the current snow removal budget.

Finance Director Lynne Dible, responding to Councillor Santos' inquiry, noted that the figure will be supplied to the Council by the end of the week.

On motion of Councillor Silveira, duly seconded, it was voted unanimously to receive said communication and financial statements.

TOWN COUNCIL

- 1. State Representative Deborah L. Ruggiero, re: Legislative Update.
(NO DOCUMENTATION)**

State Representative Deborah L. Ruggiero addressed the Council presenting the following legislative update entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said verbal legislative update.

- 2. Memorandum of Town Planner, with enclosures, re: FY2009 Small Cities Community Development Block Grant Application (CDBG) – Project priorities.**

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

3. Public Hearing (Advertised)

Town of Middletown application for Small Cities Community Development Block Grant (CDBG) for certain projects, in an amount not to exceed \$250,000.

Public Hearing was declared open.

Stephen P. Ostiguy, Executive Director, Church Community Housing Corporation, addressed the Council noting that the Town is eligible for an amount not to exceed \$250,000. Mr. Ostiguy assists the Town with the CDBG grant application and requests the Town of Middletown to make a 2009 CDBG application for the following activities:

There being no other person present desiring to be heard on the matter, public hearing was declared closed.

Council President Semonelli noted a second public hearing will be held at a date to be determined.

4. Memorandum of Town Administrator, with enclosures, re: Award of contract for Survey, Data Acquisition, Engineering and Bid Documents – Aquidneck Corporate Park.

John Caito, President, John P. Caito Corporation, requested that the Council consider his firm for the Aquidneck Corporate Park project noting his firm is approximately \$15,000. less than the next bidder, his corporation is qualified, and the project will be delivered on time.

Town Engineer Warren Hall noted that there is a point criteria process

for scoring bids. The eleven proposals were scored based on 7 criteria which are Firm Experience, Similar Project Experience, Personnel Qualifications/Experience, Project Understanding, Project Methodology/Approach, Project Schedule and Project Cost. John P. Caito Corporation did receive the highest points for project cost.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

The enclosures referenced in the above memorandum are on file in the Office of the Town Clerk.

5. Resolution of the Council, re: Award of contract for Survey, Data Acquisition, Engineering and Bid Documents – Aquidneck Corporate Park.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

6. Public Hearing (Advertised)

Application of Khalid Pathan dba 7-Eleven #26211B, 939 West Main Road, for Victualling House License – Additional Hours of Operation for the 2008-2009 licensing year. (NEW)

Public Hearing was declared open.

There being no person present desiring to be heard on the matter, public hearing was declared closed.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.

7. Application of Khalid Pathan dba 7-Eleven #26211B, 939 West

Main Road, for a Victualling House License for the 2008-2009 licensing year. (NEW)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license, contingent on Building Official, Fire Marshall, Board of Health and Public Works approvals.

8. Application of Khalid Pathan dba 7-Eleven #26211B, 939 West Main Road, for a Holiday License for the 2009-2010 licensing year. (NEW)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.

9. An Ordinance of the Town of Middletown (Second Reading)

An ordinance in amendment to the Town Code of the Town of Middletown, Title VII, Traffic Code. (Reservoir Road/Renfrew Avenue)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

10. Memorandum of Town Administrator, with enclosures, re: Surplus Property – Executone Phone Units.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

11. Resolution of the Council, re: Surplus Property – Executone Phone Units.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

12. Memorandum of Town Administrator, with enclosures, re: CGI Communications Video Project.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown is seeking approval from the Council to add a new feature to the Town website. CGI Communications will produce between 5 & 8 videos for the website at no cost to the Town. Selling advertising offsets the cost which will benefit CGI Communications traffic on their website. The town must commit with CGI Communications for three (3) years.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to authorize the Town Administrator to proceed with an agreement with CGI to develop and produce a Community Video website for the Town of Middletown.

13. Memorandum of Town Administrator, re: Senior Tax Exemption.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

14. Resolution of the Council, re: Endorsing enabling legislation – Senior Tax Exemption.

Antone Vivieros, 110 Indian Hill Road, questioned if approval is received by the legislators will the question be placed before the electorate prior to enactment?

Town Solicitor Michael W. Miller, responding to Mr. Vivieros, noted that bond counsel has previously indicated that items concerning taxes do not have to go before the electorate; however Mr. Miller will request an opinion from bond counsel and forward the results to the

Council.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to pass said resolution.

15. Memorandum of Town Administrator, with enclosures, re: PAYT Refuse & Recycling Program.

Manny Mello, 31 Beacon Terrace North, noted that at first he was against the PAY-Throw program; however he sees the problems are the bags break apart and not knowing how to get rid of wood. Mr. Mello also questioned the cost of the program on the tax rate.

Town Administrator Shawn Brown, responding to Mr. Mello, noted that the program is .15 on the tax rate.

Town Administrator Shawn Brown requests the consensus of the Council concerning the PAY-Throw program noting that he is currently in discussion with Waste Management and will not continue, if the Council does not support the program.

Mr. Brown reviewed his memorandum entered here:

Council President Semonelli noted that he supports the program however; there are areas of the program that need tweaking.

Councillor Silveira noted that at the beginning of the program the question should have been presented to the voters. At this time, Councillor Silveira believes adjustments to the program need to be made as necessary.

Antone Vivieros, 110 Indian Hill Road, noted he was a member of the transfer station committee. The committee did not want the program to be part of the tax rate. The committee requested that money from

the transfer station be left in the budget: however that did not happen. Mr. Vivieros believes the big problem is that recycling is not mandatory.

Councillor VonVillas noted that she is interested in following the program and the survey has given the Town good information on the program; though the program is not perfect this program makes the most sense.

Councillor Bozyan noted that he agrees with Councillor VonVillas and feels the trash program is getting better.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

The enclosures referenced in the above memorandum are on file in the Office of the Town Clerk.

16. Communication of Meredith Adams, 178 Vaucluse Avenue, re: Support of the “Pay as You Throw Program”.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

17. Communication of Councillor Sylvia, re: Enabling Legislation for a Special Election – Middletown “Pay as You Throw”.

Councillor Sylvia noted that the program is very successful; however early on he was led to believe that program would support for itself. Mr. Sylvia does not believe that the Town should sustain the PAY-Throw program. This may cause a monetary drain on the budget.

On motion of Vice Chairman Cambra, duly seconded, it was voted

unanimously to receive said communication.

Councillor VonVillas does not support a special election noting this is a decision to be made by the Council. The responses from the survey concerning the PAY-Throw program gave officials good quality information.

Councillor Bozyan does not support a special election and believes the bag price needs to be increased. The comments from the survey supply enough data for the program.

Councillor Silveira noted that he would not support the request of a special election.

Antone Vivieros, 110 Indian Hill Road, supports the PAY-Throw program noting he would like to see an increase in participation and some tweaking of the program.

Vice Chairman Cambra noted that he does not support a special election and suggests a reduction in restrictions on the program.

On motion of Councillor Sylvia, duly seconded, it was voted to have a Special Election for the electorate to decide on the PAY-Throw program, Councillor Sylvia voted YES; Council President Semonelli, Vice Chairman Cambra, Councillor Bozyan, Councillor Santos, Councillor Silveira and Councillor VonVillas voted NO to said motion; MOTION FAILED TO PASS.

18. E-mail communication of Council President Semonelli and Councillor Bozyan, re: Discussion of ways of insuring public input regarding the preservation, future development or transfer of interest in Second Beach.

Council President Semonelli requests the Council to consider protecting the beaches referring to a request made by former Councillor Barrow noting that the Council has no control over actions

of future Councillors. Mr. Semonelli suggests putting an ordinance in place to protect the beach areas.

Councillor Silveira concerned with acting on this issue noting the previous Council addressed the issue several times.

Councillor Sylvia expressed concern of adopting an ordinance on the issue noting that it may be seen as not trusting future Council decisions. Mr. Sylvia noted that he cannot support this type of ordinance.

Councillor VonVillas agrees with Councillor Sylvia noting the Council must have faith in future Councils and decisions that are made.

Councillor Santos thinks that the beach should never be sold and if the issue is considered, it should be up to the electorate.

Town Solicitor Michael W. Miller noted that the previous council requested information of ways to protect the beach; the following options were offered:

Councillor Silveira noted that the Council could create a policy for the beach areas however he does not support any other proposal that may be restrictive.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said e-mail communication.

On motion of Councillor Silveira, duly seconded, it was voted to request the Town Solicitor to draft a policy stating the Council intention concerning the best use of the beach property for the next regular meeting to be held on March 16, 2009; Vice Chairman Cambra, Councillor Silveira, Councillor Sylvia, Councillor VonVillas voted YES; Council President Semonelli, Councillor Bozyan and Councillor Santos voted NO to said motion.

19. Communication of Arthur S. Weber, Chair, Aquidneck Island Planning Commission, re: Requesting Council Liaison to Aquidneck Island Planning Commission.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and appoint Councillor VonVillas as the liaison to the Aquidneck Island Planning Commission.

20. Appointment of two (2) members to the Roads/Utilities Advisory Committee for a term expiring March 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Arthur E. Benner and William J. DiMarco to the Roads/Utilities Committee for a term expiring March 2012.

21. Appointment of six (6) members to the Middletown Substance Abuse Prevention Task Force Committee; term limits must be set.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint three (3) members to the Middletown Substance Abuse Prevention Task force for a three (3) year term and three (3) members for a two (2) year term.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Michael E. Allen to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2011.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Jennifer Barrera to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Carmela A. Geer to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Nancy T. Heroux to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2012.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Gretchen Jenkins to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2011.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to appoint Heather Taylor to the Middletown Substance Abuse Prevention Task Force Committee for a term expiring March 2011.

It was requested that the Town Clerk advertise for three (3) members to fill the existing vacancies on the Middletown Substance Abuse Task Force Committee.

22. Appointment of two (2) members to the Zoning Board of Review; one regular member for a term expiring April 2014 and one first alternate for a term expiring April 2010.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Lucy R. Levada, as a regular member, to the Middletown Zoning Board of Review for a term expiring April 2014.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reappoint Frank Flanagan, as 1st alternate, to the Middletown Zoning Board of Review for a term expiring April 2010.

It was requested that the Town Clerk advertise for two (2) members to fill the existing vacancies on the Zoning Board of Review.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during this session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:05 P.M.

Wendy J.W. Marshall, CMC

Council Clerk